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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,793	11/13/2001	Gerard Laurent Buisson	8320M	5852

27752 7590 04/19/2004

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 04/19/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,793

Applicant(s)

BUISSON ET AL.

Examiner

Robin A. Hylton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-9 and 12-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaud et al. (US 4,742,934).

Michaud teaches the claimed over-cap except for the specific length of the at least one inner extension **52** extending about the perimeter of the over-cap and an intersection of points bounding the at least one extension formed by imaginary lines. Michaud teaches at column 3, lines 57-59 that the (tray and) lid can have a triangular configuration.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the inner extensions less than about 70% of the perimeter of the over-cap, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. Doing so is an obvious matter of choice for spacing the detents for easy removal from an associated container, yet allowing for maintaining a secure fit of the lid on the associated container.

Regarding claim 7, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the inner extension as a plurality since the examiner takes Official Notice of the equivalence of a single inner extension and a plurality of inner extensions for their use in the container art and the selection of any of these known equivalents to maintain an over-cap in snap-fit engagement with an associated container lip would be within the level of ordinary skill in the art.

Wherein the claim limitations of imaginary lines can be drawn in an infinite number of locations on the over-cap, it have been obvious to one having ordinary skill in the art at the time

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the invention was made to use any combination of imaginary lines to provide an over-cap having the desired dimensions. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the inner extensions at a distance bounded by intersecting points 20% along two intersecting imaginary lines of the over-cap. Doing so provides an over-cap of the desired dimensions of the manufacturer for its intended use.

3. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Michaud in view of Blanchard (US 4,026,459).

Michaud teaches the claimed over-cap except for the flange comprising an upper, outwardly extending portion and a lower, downwardly extending portion.

Blanchard teaches it is known to provide a cap flange having an upper, outwardly extending portion and a lower, downwardly extending portion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the over-cap of Michaud with both an upper, outwardly extending portion and a lower, downwardly extending portion. Doing so provides additional support for the container skirt outer peripheral portion.

Response to Arguments

4. Applicant's arguments filed February 2, 2004 have been fully considered but they are not persuasive.

Regarding applicant's remarks regarding the examiner's personal knowledge, an affidavit is not necessary nor is an additional reference. The rejections are based solely upon the references applied or applicable case law. Although the drawings are not relied upon for disclosing specific dimensions, they are capable of showing relative spatial relationships between elements of the structure. It can be seen in figure 2 of Michaud that the detents 52

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each extend only at the corners of the overcap. At the most, the total length of all the detents is 50% of the length of the perimeter. This is certainly less than 70% of the perimeter of the overcap. Thus, a single detent extends less than 70% of the perimeter of the over-cap. Applicant's attention is directed to the figure for further consideration.

Regarding applicant's remarks regarding the substantially continuously extending skirt, Michaud does not teach away from the claimed invention. The skirt of Michaud's lid must be continuous or it would not remain on the container. The skirt 48 is not uniformly continuous because of the detents formed in the skirt wall, but it is substantially continuous as set forth in the claim(s). A careful review of the drawing figures will reveal to applicant the skirt is indeed continuous.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which

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require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

7. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number (703) 872-7306 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

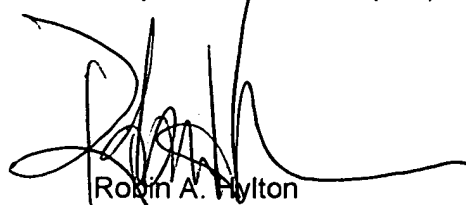
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (703) 308-1208. The examiner works a flexible schedule, but can normally be reached on Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on (703) 308-2572.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Technology Center 3700 Customer Service Office at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1148.

RAH
April 14, 2004


Robin A. Hylton
Primary Examiner
GAU 3727